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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

ELIZABETH REDMAN,)	
)	Civil Action No. 3:12-CV-11-AC
Plaintiff,)	
)	AMENDED COMPLAINT
v.)	
)	(Jury Trial Demanded)
JOHN T. MOREHEAD,)	
)	
Defendant.)	

Plaintiff Elizabeth Redman alleges as follows:

THE PARTIES

1.

Plaintiff is a resident of Oakland, California and a citizen of California. Defendant John T. Morehead is an Oregon resident and is not a citizen of the State of California.

JURISDICTION AND VENUE

2.

This Court has jurisdiction over the subject matter of this action pursuant to 28 USC § 1332(a) because this action is one between citizens of different states, and the matter in controversy exceeds \$75,000.00, exclusive of costs.

3.

Venue in the present judicial district is proper pursuant to 28 USC § 1391(a)(2) because a substantial portion of the events giving rise to Plaintiff's claims occurred here, and because Defendant was subject to personal jurisdiction in this District at the time this action was commenced.

GENERAL ALLEGATIONS

4.

As set forth in its official Trail Guide, Smith Rock State Park is a "sanctuary of majestic rock spires that rise above the winding Crooked River in central Oregon's high desert." The park is compact but still contains miles of trails for hiking, biking and horseback riding. Smith Rock provides for wildlife viewing; there are regular interpretive presentations and special events to help visitors learn about the park's natural history and its archeology; and the park provides camping facilities. But Smith Rock is most famous as an internationally-known destination for rock climbing.

5.

In the Fall of 2010, Defendant set up a temporary "rope swing" on the Monkey Face rock pillar in Smith Rock State Park, and disclosed his monkey swing to other climbers. On one occasion he did so with his arms around two female climbers, who he introduced by saying, "look what the monkey swing brings you." Defendant was told then to take his swing down because it was unsafe. Defendant refused to do so.

7.

On the morning of July 9, 2011, Defendant had again set up his rope swing on the Monkey Face.

8.

That same morning, a group of professionally-guided climbers had set up a traditional Tyrolean traverse to the “Mouth” of Monkey Face. The professional guides would not climb with their group while the Defendant’s swing was in operation.

9.

After the Tyrolean group left, there were still several other climbers on Monkey Face and Defendant was aware of their presence.

10.

After the Tyrolean group left, Defendant climbed to an area known as the “Diving Board” from which he would jump onto his monkey swing.

11.

From the Diving Board, Defendant had an unobstructed view down about 150’ to the base area at the bottom of Monkey Face. Just prior to his jump, Defendant saw or reasonably should have seen that Plaintiff and several other climbers were grouped there.

12.

Just prior to his jump, Defendant had an unobstructed view of his rappel and haul line, which coursed along the ground between Plaintiff and two other climbers who were in a group together in the base area at the bottom of Monkey Face. Defendant either saw or reasonably should have seen that his rappel and haul line coursed between Plaintiff and the other climbers who were standing in the base area.

13.

Plaintiff did not clear the area below him before he jumped onto his rope swing, although he knew it was occupied by several other park visitors, including Plaintiff.

14.

Plaintiff gave no warning immediately before he jumped that was heard by any of the other climbers or hikers around Monkey Face. Instead, he issued a loud scream as he jumped off the Diving Board attached to a 35 meter rope. He then loudly called attention to himself while he swung out and through the space between the Monkey Face pillar on his left and another cliff face on his right.

15.

After two or three swings on his rope swing, Defendant grabbed his rappel and haul line to arrest his swinging motion. When he did so, he either intentionally or recklessly whipped the rappel and haul line against Plaintiff, knocking her off of the walking path in the base area at the bottom of Monkey Face.

16.

After she was knocked off of the walking path in the base area, Plaintiff fell a substantial vertical distance and then bounced and rolled, unconscious and out of control, until her body was finally stopped by other visitors who were hiking on one of park's main paths.

FIRST CLAIM
(Battery)

17.

Plaintiff hereby incorporates all of the above-stated allegations as if fully set forth herein.

18.

In whipping his rappel and haul line against Plaintiff, Defendant contacted plaintiff's person.

19.

Defendant's contact with Plaintiff was done either intentionally or recklessly with substantial certainty that Plaintiff would be touched by the line.

20.

Defendant's contact with Plaintiff was offensive and done with force and violence.

21.

When his line hit Plaintiff, Defendant committed the tort of battery, causing Plaintiff to fall and sustain damages as alleged below.

SECOND CLAIM

(Negligence)

22.

Plaintiff hereby incorporates all of the above-stated allegations as if fully set forth herein.

23.

Defendant breached his duty to use reasonable care while recreating in the park, all to Plaintiff's damages as alleged below.

THIRD CLAIM

(Recklessness; gross negligence)

24.

Plaintiff hereby incorporates all of the above-stated allegations as if fully set forth herein.

25.

Defendant's actions were reckless or grossly negligent in the extreme, all to Plaintiff's damages alleged below.

DAMAGES

26.

Plaintiff hereby incorporates all of the above-stated allegations as if fully set forth herein.

27.

As a result of Defendant's actions, Plaintiff was physically injured, has incurred medical and treatment related expenses, including emergency life flight and rescue expenses, in the approximate sum of \$72,000.00, and anticipates incurring additional medical and treatment related expenses in the approximate sum of \$13,000.00.

28.

As a further result of Defendant's actions, Plaintiff has lost wages or income in the approximate sum of \$6,500.00, and has suffered impaired earning capacity in the sum of \$75,000.00.

29.

As a further result of Defendant's actions, Plaintiff has suffered physical and mental pain and suffering, disfigurement, the loss of enjoyment of life, mental and emotional trauma, and other damages that would or could be reasonably anticipated to arise under the circumstances in the sum of \$1,000,000.00.

30.

Defendant's intentional or reckless swinging, after warnings of its danger, was reckless and wanton in the extreme justifying an award of punitive damages in the sum of \$1,000,000.00.

* * *

WHEREFORE, Plaintiff Elizabeth Redman requests judgment against Defendant John T.

Morehead as follows:

- A. For compensation for all economic, non-economic, incidental, and consequential damages suffered by Plaintiff in the sum of \$1,166,500.00 as a result of Defendant's conduct;
- B. For punitive damages in an amount to be determined by a jury at the time of trial in the sum of \$1,000,000.00;
- C. Awarding Plaintiff her reasonable costs and disbursements, to the fullest extent allowed by law; and
- D. Granting all such additional or further relief as this Court deems just and equitable under the circumstances.

DATED this 2nd day of May, 2012.

ELLIOTT, OSTRANDER & PRESTON, P.C.

/s/ Joel P. Leonard

John D. Ostrander, OSB No. 87394

Joel P. Leonard, OSB No. 960810

Of Attorneys for Plaintiff